

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION**

ROGER A. LIBBY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 2:24-CV-11-RLW
	)	
ERIC J. LIBBY,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on review of self-represented plaintiff Roger A. Libby's application to proceed in district court without prepaying fees or costs pursuant to 28 U.S.C. § 1915. ECF No. 5. Plaintiff has submitted a certified inmate account statement as required by 28 U.S.C. § 1915(a)(2). *Id.* at 4-10. According to the statement, plaintiff's average monthly balance is \$8,838.05. On the date plaintiff filed the instant motion to proceed *in forma pauperis*, his account balance was \$8,137.26. Plaintiff's opening balance was \$9,609.81 on July 23, 2023, illustrating modest monthly expenses. The filing fee for this action is \$405.

Determining whether an applicant is sufficiently impoverished to qualify under § 1915 rests within the sound discretion of the trial court. *Cross v. General Motors Corp.*, 721 F.2d 1152, 1157 (8th Cir. 1983). The showing of poverty is sufficient if the applicant would become completely destitute or be forced to give up the basic necessities of life if required to pay the costs of the lawsuit. *Adkins v. E.I. Du Pont De Nemours & Co.*, 335 U.S. 331, 339 (1948).

Due to plaintiff's available cash funds, plaintiff has not shown that he is unable to pay the filing fee. The Court will therefore deny his application to proceed in district court without prepaying fees or costs. If plaintiff wishes to proceed with his complaint, he shall pay the filing fee in full within twenty-one (21) days from the date of this Memorandum and Order.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion to proceed *in forma pauperis* [ECF No. 5] is **DENIED**.

**IT IS FURTHER ORDERED** that plaintiff shall pay the full statutory filing fee of \$405 no later than **April 1, 2024**.

**Plaintiff's failure to timely pay the full \$405 filing fee will result in the dismissal of this case, without prejudice and without further notice.**

A handwritten signature in cursive script that reads "Ronnie L. White". The signature is written in black ink and is positioned above a horizontal line.

**RONNIE L. WHITE**  
**UNITED STATES DISTRICT JUDGE**

Dated this 11th day of March, 2024.